

REMARKS

As a preliminary matter, Applicant appreciates the courtesies extended by the Examiner during the personal interview of July 19, 2004. As reflected in the Interview Summary, the Examiner agreed to withdraw the outstanding Section 112 and 103 rejections during the interview.

Claims 2-20 and 34-47 remain pending in this application. Claims 48-51 have been added.

Minor amendments have been made to claims 35-37. Support for the claim amendments and the subject matter of the new claims is found throughout the original specification, including at pages 12-14. Accordingly, Applicant respectfully requests approval and entry of the claim amendments and new claims and withdrawal of the objection to claims 37 and 38 set forth on page 4 of the Office Action.

Applicant acknowledges the Examiner's indication that claims 12-20 are allowed and claim 36 contains allowable subject matter.

CLAIM REJECTIONS -- 35 U.S.C. § 112

The claims have been rejected as indefinite for their use of the term "incapacitating agent."

This rejection is respectfully traversed.

As explained during the interview, the term “incapacitating agent” is a term understood and used in the art. Applicant is not required to define such a term in the specification. Further, the specification provides various examples of what is meant or encompassed by the recitation of “incapacitation” of a recipient of the agent. *See, e.g.*, pages 1 and 12 of the specification.

As memorialized in the Interview Summary, an agreement has been reached to withdraw this rejection. Applicants respectfully request that the rejection be formally withdrawn at this time.

CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 5, 6, 8, 10, 11, 34, 35, 42, 44, 46, and 47 have been rejected under 35 U.S.C. § 103(a) (hereinafter “Section 103”) as being anticipated by U.S. patent application publication 20020058053 to Nakanishi et al. (hereinafter “Nakanishi”).

Claims 2-4, 7, 39-41, and 43 have been rejected under Section 103 as being unpatentable over Nakanishi in view of U.S. Patent No. 4,883,659 to Goodman (hereinafter “Goodman”).

Claims 9 and 45 have been rejected under Section 103 as unpatentable over Nakanishi in view of U.S. patent application no. US20030134780 to Patt (hereinafter “Patt”).

Applicant respectfully traverses these rejections.

As pointed out during the interview, the “anti-inflammatory agent” (see page 3 of Office Action) disclosed in Nakanishi is neither an incapacitating agent nor an

inflammatory agent. Neither Goodman nor Patt overcomes this deficiency or provides adequate teaching to motivate a person of ordinary skill in the art to use the Nakanishi composition as part of an incapacitating formation or method. For these reasons, and as agreed upon during the interview, Applicant respectfully requests withdrawal of all rejections relying on Nakanishi.

Conclusion

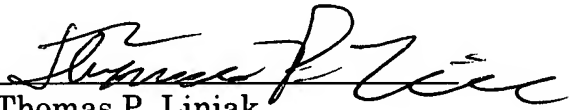
In view of the foregoing, Applicant respectfully submits that the pending claims are allowable and that the application is in condition for allowance. Reconsideration of the application in view of this Response and its passage to issue are respectfully requested.

If, after reviewing the above, the Examiner believes any issues remain unresolved, the favor of an Examiner interview is requested and the Examiner is requested to contact the undersigned, by telephone, to schedule the same.

This Response is being filed with a Petition for extension of time and a two-month extension fee. Should the Petition be missing and/or the extension fee missing or inadequate, then the Patent Office is respectfully requested to accept this paper as a petition and further is authorized to charge the missing or deficient fee to our Deposit Account No. 50-0548.

Respectfully submitted,

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